

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3283-08
Bill No.: SCS for HCS for HB 1314
Subject: Liability; Department of Elementary and Secondary Education; Elementary and Secondary Education.
Type: Original
Date: May 8, 2008

Bill Summary: The proposal grants civil immunity to employees of DESE, to school districts, and employees of school districts in actions involving the reporting or discussion of employee job performance in employment decisions affecting the safety and welfare of the students. The defense is to be covered by the state legal expense fund.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
General Revenue	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
Total Estimated Net Effect on General Revenue Fund	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
State Legal Expense	\$0	\$0	\$0
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Total Estimated Net Effect on FTE	0	0	0

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

In response to a similar proposal from the current session (SCS for SB 713, LR # 3511-07), officials from the **Office of Administration – Administrative Hearing Commission, Department of Social Services, Francis Howell School District, Platte County R-3 Public School District**, and the **Marshfield Public School District** assumed the proposal would have no fiscal impact on their agencies.

In response to a similar proposal from the current session (SB 713, LR # 3511-03), officials from the **Office of the Attorney General (AGO)** assumed any potential costs arising from this proposal can be absorbed within existing resources. Additional staff and expenses are not being requested with this single proposal, but if multiple proposals pass during the legislative session which require policy form reviews, the AGO will need to request additional staff to handle the increase in workload.

In response to a similar proposal from the current session (SCS for SB 713, LR # 3511-07), officials from the **Office of State Courts Administrator** assumed the proposed legislation would have no fiscal impact on the courts.

In response to a similar proposal from the current session (SCS for SB 713, LR # 3511-07), officials from the **Office of Administration – Division of General Services (COA)** assumed the proposal grants immunity to employees of DESE, to school districts, and employees of school districts in actions involving the reporting or discussion of employee job performance in employment decisions affecting the safety and welfare of the students. The defense is to be covered by the state legal expense fund.

COA assumes the only exposure to the state legal expense fund is the cost of defense. The proposed legislation has the potential for costs that cannot be determined at this time.

The state self-assumes its own liability protection under the state legal expense fund, Section 105.711, RSMo. It is a self-funding mechanism whereby funds are made available for the payment of any claim or judgment rendered against the state in regard to the waivers of sovereign immunity or against employees and specified individuals. Investigation, defense, negotiation or settlement of such claims is provided by the Office of the Attorney General. Payment is made by the Commissioner of Administration with the approval of the Attorney General. COA has reflected the costs affecting the general revenue fund, as general revenue funds the state legal expense fund.

ASSUMPTION (continued)

Oversight assumes the proposal would impact the State Legal Expense Fund if a claim is filed. If no claim is filed, there would be no impact to the State Legal Expense Fund. Therefore, Oversight has ranged the cost from \$0 to (Unknown) for each fiscal year.

In response to a similar proposal from the current session (SCS for SB 713, LR # 3511-07), officials from the **Department of Elementary and Secondary Education** assumed this proposal would expand the scope of the State Legal Expense Fund, so far as it applies to local school officials. The increased call on the fund's resources for legal representation would be based upon the number of actions filed. Therefore, the cost is unknown.

In response to a similar proposal from the current session (SCS for SB 713, LR # 3511-07), officials from the **Office of the Secretary of State (SOS)** assumed many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this proposal for Administrative Rules is less than \$2,500. The SOS recognizes this is a small amount and does not expect additional funding would be required to meet these costs. However, SOS also recognizes that many such bills may be passed in a given year and that collectively the costs may be in excess of what the SOS can sustain with their core budget. Any additional required funding would be handled through the budget process.

<u>FISCAL IMPACT - State Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
GENERAL REVENUE FUND			
<u>Transfers out</u> – to State Legal Expense Fund	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2009 (10 Mo.)	FY 2010	FY 2011
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STATE LEGAL EXPENSE FUND

<u>Transfers in</u> – from General Revenue Fund	\$0 to Unknown	\$0 to Unknown	\$0 to Unknown
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<u>Costs</u> – Office of Administration Increased liability	<u>\$0 to</u> (Unknown)	<u>\$0 to</u> (Unknown)	<u>\$0 to</u> (Unknown)
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ESTIMATED NET EFFECT ON STATE LEGAL EXPENSE FUND	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

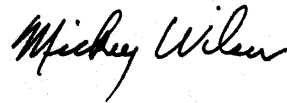
FISCAL DESCRIPTION

The proposed legislation grants immunity to employees of DESE, to school districts, and employees of school districts in actions involving the reporting or discussion of employee job performance in employment decisions affecting the safety and welfare of the students. The defense is to be covered by the state legal expense fund.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Attorney General
Office of Administration
 – Administrative Hearing Commission
 – Division of General Services
Office of State Courts Administrator
Department of Elementary and Secondary Education
Department of Social Services
Office of the Secretary of State
Francis Howell School District
Platte County R-3 Public School District
Marshfield Public School District

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA
Director
May 8, 2008